

MANDATORY MINIMUMS IN A NUTSHELL

What is a mandatory minimum?

A mandatory minimum is a sentence, created by Congress or a state legislature, which the court **must** give to a person convicted of a crime, no matter what the unique circumstances of the offender or the offense are. Typically, mandatory minimums apply to gun and drug crimes and are based on only the type and weight of the drug involved or the possession or presence of a gun.

Example: A person is convicted of selling 28 grams of crack cocaine. The mandatory sentence is 5 years in prison without parole. The court **must** give this sentence, even if it is too harsh for the offender, his role in the offense, or the nature of the crime.

When were mandatory minimums created?

The current mandatory minimums for federal drug offenses were created by Congress in 1986 and 1988. Over 260,000 people have received mandatory minimums for a federal drug offense.

Do states also have mandatory minimums?

Yes, usually for drug and gun crimes. These sentences are created by each state's legislature and vary from state to state.

What's the alternative to mandatory minimums?

Sentencing guideline systems created by expert commissions. Guidelines typically give courts

1. Sentencing ranges for each crime (i.e., 51-63 months in prison) that depend on the offender's criminal record and the seriousness of the crime, and
2. Flexibility to sentence inside, above, or below that range, if there are special facts and circumstances of the offender or the crime.

The federal system and many states have sentencing guidelines, in addition to their mandatory minimums. Guidelines can be either mandatory (courts must follow them) or advisory (courts can choose not to follow them, when the facts call for it). Well-written advisory guidelines provide judges with reasonable sentencing options and are fairer and more flexible than mandatory minimums.

Why are mandatory minimums a bad sentencing policy?

Anyone who has ever bought a "one size fits all" T-shirt knows that **one size never fits all!** In fact, "one size fits all" shirts are usually too big on most people! Mandatory minimum sentences are exactly the same – because courts can't tailor these sentences to fit the individual, many people get punishments that are too harsh for the crimes they committed. Mandatory minimums are based on only the type and weight of the drug, which prevents courts from considering other important facts, like whether the offender is nonviolent or a drug addict, not dangerous to the community, or played a minor role in the crime.

**How do we change mandatory minimum sentences?**

Only Congress and state legislatures can change these laws. They will only change them if the public tells them to! You can help us change these laws by writing to your legislators, educating your friends and neighbors, and by donating to FAMM's work.

Where can I learn more?

Visit us online at www.famm.org. You can also find us on Twitter and Facebook!

4/26/12